confuse the jury, and that therefore instructions to the effect that "the burden of proof has shifted to the defendant" or "the defendant must prove by a preponderance of the evidence that he was not negligent" are not prejudicially erroneous. But it would seem that if these terms have a well-defined legal meaning, their correct use should be insisted upon, even at the risk of reversal on what seem purely technical grounds. Such is the view of the United States Supreme Court in *Sweeney* v. *Erving, supra,* which is approved in the instant case. As to whether the presumption of negligence requires or merely permits a verdict for the plaintiff if the defendant produces no evidence in rebuttal, the decisions are not in harmony. See *Sweeney* v. *Erving, supra,* and *Briglio* v. *Holt,* 85 Wash. 155. See WIGMORE, par. 2509, for rules governing the application of the doctrine of *res ipsa loquitur.*

SLANDER—"CROOK" NOT SLANDEROUS PER SE.—It was alleged that defendant said of plaintiff, "Madame is a crook," and that the words imputed commission of crime involving moral turpitude or infamous punishment. *Held,* the innuendo is not supported by reason or authority; that "crook" is applied to persons who are not guilty of crime, and as no special damage is alleged the cause is dismissed on demurrer. *Villemin* v. *Brown,* 184 N. Y. S. 570.

In the English courts and the majority of American courts it is the duty of the court to determine whether the language used in the publication can fairly or reasonably be construed to have the meaning imputed, and if the court determines it is *capable* of such construction it is then left to the jury to decide in what sense the language was used. *Hankinson* v. *Bilby,* 16 M. & W. 441; *Shubley* v. *Ashton,* 130 Ia. 195; *Downs* v. *Hawley,* 112 Mass. 237; *Langer* v. *Courier News,* 179 N. W. 909. On the other hand, in some jurisdictions, including that of the principal case, when the words are free from ambiguity or evidence tending to change their natural meaning, whether they are slanderous or libellous *per se* or not is passed upon by the court as a matter of law. *Cooper* v. *Greeley,* 1 Denio (N. Y.) 347; *More* v. *Benett,* 48 N. Y. 472; *Pugh* v. *McCarty,* 44 Ga. 383; *Gottbehuet* v. *Hubachek,* 36 Wis. 515; *Gabe* v. *McGinnis,* 68 Ind. 538. Determined either as a matter of fact or of law, it would seem that "crook" means a person liable to imprisonment for crime. The court in the principal case apparently treats of "crook" and "crooked" as synonymous. This may have been a source of error. While neither term is credited with a precise meaning, "crooked" commonly denotes failure to abide by the prevailing morality, whereas "crook" is a term carrying greater opprobrium, and ordinarily suggests a person who gains a livelihood by committing felonies. The class of slanders *per se* is a rigid one, but not without reason, and, as the principal case holds, whenever a plaintiff has suffered actual damage he is always at liberty to show it and recover for it.

STREET RAILROADS—CONTRIBUTORY NEGLIGENCE IN FAILING TO STOP AND LOOK A QUESTION OF FACT.—Plaintiff, while crossing defendant's street railway track, was struck by a street car and severely injured. Plaintiff's auto-